

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Kenny McCormick Case No. D2024-3289

1. The Parties

The Complainant is The Commissioners for HM Revenue and Customs, United Kingdom (“UK”), represented by Demys Limited, UK.

The Respondent is Kenny McCormick, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hmrc-support.online> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2024. On August 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 12, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on September 19, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, officially recognized as “His Majesty’s Revenue and Customs,” is commonly referred to as “HM Revenue and Customs” or simply “HMRC”. It functions as a non-ministerial department within the government of the UK, tasked with the vital responsibilities of tax collection, distribution of certain state benefits, and the administration of various regulatory frameworks. As the tax authority of the UK Government, the Complainant serves as a direct point of contact and provider of services for nearly every individual and business in the UK. The Complainant operates a website within the UK Government’s official portal which can also be accessed through its domain name at <hmrc.gov.uk>. The Complainant owns UK trade mark registration 2471470 registered on March 28, 2008.

The disputed domain name was registered on May 16, 2024, by the United States based Respondent. It does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that that it owns registered trade mark rights for the HMRC mark as set out above and that its mark is wholly incorporated into the disputed domain name and being the most prominent, dominant and distinctive element is therefore confusingly to it. It also submits that the addition of the term “-support” does not prevent a finding of confusing similarity. Nor, says the Complainant, does the Top-Level Domain “.online” make any difference for the purposes of comparison.

The Complainant says that it has found no evidence that the Respondent has been commonly known by the names “hmrc” or “hmrc support” prior to or after the registration of the disputed domain name. It says that the Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its mark or name in association with the registration of the disputed domain name or, indeed, any domain name, service or product. The Complainant has found nothing to suggest that the Respondent owns any trade marks that incorporate or are similar or identical to the terms “hmrc” or “hmrc support”. Equally, the Complainant has found no evidence that the Respondent has ever traded or operated as “hmrc” or “hmrc support”.

The Complainant avers that the Respondent specifically cannot claim a legitimate “fair use” interest as the nature of the disputed domain name carries a risk of implied affiliation. The Complainant contends that the use of the Complainant’s HMRC name and mark in combination with the generic dictionary word SUPPORT is likely to “indicat[es] services related to the brand”, in accordance with section 2.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), and falsely implies an affiliation between the Respondent and the Complainant. Thus, says the Complainant, the Respondent cannot derive a legitimate interest in the disputed domain name.

The Complainant contends that it is very well known in the UK and around the world as HMRC and to illustrate this has produced screenshots of various websites, including from Google and various social media sites and from various news articles which refer to it as “HMRC”.

The Complainant notes that, as with other tax authorities around the globe, it and its customers are frequently targeted by phishing, online scams and other criminality. The Complainant observes that there are characteristics which are common to domain names that have been used to target the Complainant and its customers for abusive purposes including:

1. The use of domain names made up of the Complainant's marks and additional generic terms.
2. Additional terms are those associated closely with the Complainant and its activities and include words such as "tax", "account", "taxation" or "UK" or suggest a call to action, such as "claim", "refunds" or "demand".
3. Terms associated with common Internet-related activities, such as "online", "site", "email" or "click".
4. A lack of qualifying terms which make the relationship (or non-relationship) between the registrant and the Complainant clear and unambiguous, such as "unofficial".
5. The use of visually similar domain names to the Complainant's marks, including typographical or homoglyph variants.
6. The use of false or redacted contact details on the Whois.
7. The use of the names and / or addresses of third parties on the Whois which have been acquired through identity theft.
- 8 Inactive websites, display of pay per click advertising or the use of default "parking pages".
9. The advertisement of premium rate telephone numbers impersonating the Complainant's own helpline.
10. The presence of Mail Exchange records in a domain name's zonefile, indicating that the domain name can be used to receive email.

The Complainant asserts that in most circumstances domain names which match one or more of the criteria noted above are likely to have been registered and used in bad faith. Equally, the Complainant avers that the more criteria which are matched, the greater the likelihood of bad faith registration and use. Furthermore, where there is direct evidence that a domain name has been registered for fraudulent use then these will be, by definition, registered and used in bad faith.

The disputed domain name does not resolve to an active website which, the Complainant contends, constitutes passive holding and as such that the disputed domain name has not been used in connection with a bona fide offering of goods or services. The Complainant asserts that the Respondent cannot obtain or derive any rights or legitimate interests through its passive holding of the disputed domain name. Finally, the Complainant observes that the Respondent did not reply to the pre-action communication sent by the Complainant's agent. This, says the Complainant, is further evidence of the Respondent's lack of bona fides and overall the Complainant asserts that it has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

According to the Complainant, the fact that its name and marks are long-established and well-known means that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name. The Complainant asserts that it is likely that web users who directly type the disputed domain name into their browsers, or find it through a search engine, will be looking for a site operated by the Complainant rather than the Respondent. The Complainant contends that the disputed domain name in and of itself is extremely likely to confuse web users trying to find the Complainant.

In terms of the factors that panels have found indicative of passive holding, the Complainant asserts that the Complainant is very well known in both in the UK and beyond and its marks have been used for many years prior to the registration of the disputed domain name. The Respondent did not respond to the Complainant's letter and has therefore put forward no evidence of any contemplated good faith use. Although the Complainant has no evidence that the Respondent has used false contact details, it does however note that the address provided on the Whois database lacks a house number or other specific indicator of the Respondent's location. The Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without the Complainant's mark in mind and with good-faith intentions.

As a result the Complainant submits that the disputed domain name has been registered and used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms such as "-support" may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant has submitted that it has found no evidence that the Respondent has been commonly known by the names "hmrc" or "hmrc support" prior to or after the registration of the disputed domain name. It has asserted that the Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its mark or name in association with the registration of the disputed domain name or, indeed, any domain name, service or product. The Complainant has also found nothing to suggest that the Respondent owns any trade marks that incorporate or are similar or identical to the terms "hmrc" or "hmrc support". Equally, the Complainant has found no evidence that the Respondent has ever traded or operated as "hmrc" or "hmrc support".

The Complainant submits that the Respondent specifically cannot claim a legitimate "fair use" interest as the nature of the disputed domain name carries a risk of implied affiliation. The Complainant has contended that the use of the Complainant's HMRC name and mark in combination with the dictionary word "support" is likely to "indicat[es] services related to the brand", in accordance with section 2.5.1 of the [WIPO Overview 3.0](#), and falsely implies an affiliation between the Respondent and the Complainant. In this regard the Complainant submits and the Panel agrees that the Respondent cannot derive a legitimate interest in the disputed domain name. Further, the Panel notes that the Respondent failed to explain itself or to reply to the Complainant's agent's pre-action correspondence.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has

not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name in May 2024, long after the registration of the Complainant's UK trade mark for HMRC. The Complainant's HMRC mark is distinctive and enjoys a very substantial reputation in the UK and has a substantive presence online. In these circumstances the Panel finds that it is more likely than not that the Respondent was well aware of the Complainant's business and mark at the date of registration.

The disputed domain name does not resolve to an active site. Under section 3.3 of the [WIPO Overview 3.0](#) panelists have found that a domain name is held passively based on a number of factors including: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

The Complainant has submitted evidence that its mark is very well known both in the UK and beyond and that its marks have been used for many years prior to the registration of the disputed domain name. The Respondent did not respond to the Complainant's agent's letter and has therefore put forward no evidence of any contemplated good faith use. Although there is no evidence on the record that the Respondent has used false contact details, the Panel notes that the address provided on the Whois database lacks a house number or other specific indicator of the Respondent's location. Considering these factors and the very considerable and widespread degree of use and of reputation attaching to the Complainant's mark, it is extremely unlikely that the Respondent registered the disputed domain name in good faith without the Complainant's mark in mind.

Having reviewed the available record, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <hmrc-support.online> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: October 3, 2024